

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

50958

FILE:

B-183636

DATE: JUL 31 1975

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MATTER OF:

Jack D. Taylor - Claim for subsistence while  
occupying temporary quarters.

DIGEST:

1. Where per diem rate is established in accordance with FPMR and travel letter does not set any limit on the amount in computing subsistence while occupying temporary quarters the then applicable maximum per diem rate of \$25 will be used.
2. After employee has moved into house he plans to buy, even though final settlement has not taken place and employee is paying rent, his entitlement to temporary quarters subsistence allowance ceases on the date he moves in.

This action results from a request by the Federal Home Loan Bank Board (FHLBB) for an advance decision upon the question of whether a reclaim voucher should be certified for payment under the following circumstances.

Mr. Jack D. Taylor, an employee of the FHLBB, was notified by letter dated August 23, 1974, that his duty station had been changed from Fort Lauderdale, Florida, to Seattle, Washington. This same letter authorized the reimbursement of Mr. Taylor, either for subsistence expenses incurred while occupying temporary quarters at his new duty station, not to exceed 30 days, as provided in FPMR 101-7 or for round trip transportation expenses to seek a new residence. Mr. Taylor claims subsistence expense payments for the 30-day period of October 20, 1974, through November 18, 1974. From October 20 to November 12, Mr. Taylor had no lodging expenses, as he stayed with friends. On November 13, he moved into the house he had decided to purchase for his permanent quarters and paid rent to its then owner until final settlement, which took place on November 26, 1974.

The FHLBB disallowed part of the amount Mr. Taylor claimed because it computed the maximum allowed him under FPMR 101-7 at a daily rate of \$12, for the period of October 20 to November 12, 1974. Mr. Taylor has reclaimed the amount disallowed. The FHLBB, therefore, submitted the following questions.

- "1. Have we followed the proper procedure in applying for the employee a \$12.00 rate as a base for computing

maximum expenses allowed under 2-5.4c (1), (2) and (3), for the period October 20 - November 12, 1974?"

While the submission does not show how the \$12 per diem rate used in computing subsistence while occupying temporary quarters was arrived at, it has been ascertained that it was obtained from the Official Travel Handbook FHLBB & FSLIC which provides for a per diem rate of \$12 where lodging is provided without cost.

The travel letter of August 23, 1974, authorizing Mr. Taylor to travel from Fort Lauderdale to Seattle incident to a change of duty station stated that the change in duty station was approved in accordance with Government travel regulations, Federal Home Loan Bank Board regulations, and Federal Property Management Regulation 101-7. The letter also stated that Mr. Taylor was authorized to be reimbursed for the following types of expenses:

- "6. Allowable expense provided in FPMR 101-7 for either subsistence while occupying temporary quarters not to exceed 30 days or round trip transportation to seek a new residence."

As stated above, Mr. Taylor chose the option of subsistence expenses for 30 days.

Federal Travel Regulations (FPMR 101-7), para. 1-7.2.a, then provided for a per diem rate not in excess of \$25. Since the travel letter did not limit the per diem rate to other than that set out in FPMR 101-7, \$25 should have been the rate used as a basis for computing the maximum expense allowable for subsistence while occupying temporary quarters.

Therefore, the first question is answered in the negative.

- "2. If the answer to question one is in the negative, what is the proper method to arrive at a basis for computation?"

Paragraph 2-5.4c of FPMR 101-7 states in pertinent part:

"Computation of maximum. The amount which may be reimbursed for temporary quarters subsistence expenses shall be the lesser of either the actual amount of

allowable expense incurred for each 10-day period or the amount computed as follows:

"(1) For the first 10 days.

"(a) For the employee, a daily rate not in excess of 75 percent of the maximum statutory per diem rate for the locality in which temporary quarters are located; and

"(b) For each member of the employee's immediate family, two-thirds of the daily rate established in (a), above.

"(2) For the second 10 days.

"(a) For the employee, two-thirds of the daily rate established in 2-5.4c(1)(a); and

"(b) For each member of the employee's immediate family, two-thirds of the daily rate established in 2-5.4c(1)(b).

"(3) For the third 10 days and for any portion of an authorized additional 30-day period.

"(a) For the employee, one-half of the daily rate established in 2-5.4c(1)(a); and

"(b) For each member of his immediate family, one-half of the daily rate established in 2-5.4c(1)(b). The daily actual subsistence expenses required to be itemized under 2-5.4a and b will be totaled for each 10-day period to permit a comparison with the maximum allowable for the particular period derived under the above formula." (Emphasis added.)

The maximum amounts allowable for the employee and his family and for the succeeding 10-day periods are all based on the daily rate established under para. 2-5.4c(1)(a). Thus, in computing the daily rate established under para. 2-5.4c(1)(a), a \$25 per diem rate should be used in the case at hand. The employee would then be entitled to reimbursement of either the actual amount of the allowable expense incurred

for each 10-day period or the amount as computed under the above formula, whichever is less.

The second question is answered accordingly.

"3. Is the disallowance of all expense for temporary quarters subsistence after November 12, 1974, proper?"

Paragraph 2-5.2a of FPMR 101-7 states in pertinent part that:

" \* \* \* Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family \* \* \* shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico and the Canal Zone; \* \* \*"  
(Emphasis added.)

An employee's entitlement to subsistence expenses when his duty station has been permanently changed is contingent upon his occupying temporary quarters. Such quarters are defined in para. 2-5.2c of FPMR 101-7 as follows:

" \* \* \* The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

The decisions of the General Accounting Office have consistently held that when an employee moves into a house he has decided to purchase, even though final settlement for the house has not yet taken place, he has ceased to occupy "temporary quarters" and is no longer entitled to subsistence expenses as provided in para. 2-5.2a of FPMR 101-7. 53 Comp. Gen. 508 (1974); B-174831, April 13, 1972. Therefore, since Mr. Taylor moved into his permanent home on November 12, 1974, although settlement did not take place until November 26, 1974, the disallowance of all temporary quarters subsistence expenses after November 12, 1974, was proper.

B-183636

The third question is answered in the affirmative.

Action on the reclaim voucher which is returned herewith should be taken in accordance with the foregoing.

R.F. KELLER

Deputy<sup>3</sup> Comptroller General  
of the United States